



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/690,247 | 10/21/2003 | James A. Duggan | 1-5222 | 3417 |

27210 7590 03/22/2005

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

EXAMINER

BINDA, GREGORY JOHN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3679

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,247

Applicant(s)

DUGGAN, JAMES A.

Examiner

Greg Binda

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 & 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-42 is/are pending in the application.
- 4a) Of the above claim(s) 34 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-33, 35-37 and 39-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/28/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3679

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

2. Claims 34 & 38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election of an elastomeric coupling having bushings like that in Fig. 4 (Species I) was made **without** traverse in the reply filed on November 24, 2004.

3. Applicant submitted new claims without identifying the claims which read on the elected species. When submitting new claims, applicant is supposed to identify the claims that read on the elected species. See MPEP § 809.02(a).

Claim Rejections - 35 USC § 112

4. Claims 23-33, 35-37 & 39-42 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The elastomeric nature of the coupling is critical and essential to the practice of the invention, but it is not included in the claims. The criticality of (i.e. the necessity of including) this feature to the practice of the invention is clearly stipulated in the title, specification and original claims. See particularly page 2, line 7 through page 3, line 9, where the elastomeric nature of the coupling is disclosed as being required in order to provide the coupling with sufficient flexibility. Sufficient flexibility is critical to the practice of the invention as clearly stipulated in the technical field at page 1 of the specification. Thus an

Art Unit: 3679

improved coupling device without an elastomeric feature is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Claim Rejections - 35 USC § 102

5. Claims 31 & 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Brizzolesi US 3,668,891. In Figs. 1 & 2 Brizzolesi shows a coupling for a rotatable shaft comprising: a driving yoke 5; a driven yoke 6; and a body 4 having first and second sets of bushings 20 within the elastomeric body, each of the bushings having a opening; a plurality of fasteners 11 securing the driving yoke to the first set of bushings and securing the driven yoke to the second set of bushings; and a plurality of tensile members 19 within the elastomeric body, the tensile members connecting the first and second bushings. In col. 2, lines 33 & 34 Brizzolesi discloses the yokes each include a plurality of yoke arms. In Fig. 2 Brizzolesi shows that each bushing 20 includes grooves (between parts 21) for the tensile members 19.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harvey, Burroughs and Decker each show a coupling.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3679

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (703) 305-2869. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GREGORY J. BINDA
PRIMARY EXAMINER